Tel. Co. v. *Flint River Lumber Co.* (1902), 114 Ga. 576, 40 S. E. 815, 88 Am. St. Rep. 36, the Georgia court reiterates its former ruling. The holding is concisely stated in the headnote in 88 Am. St. Rep. 36, as follows:—"If a message is delivered to a telegraph company containing an offer to sell merchandise at a certain price, and the company so transmits it as to contain an offer at a less price, the sender is bound to furnish the merchandise at the latter price, and he may recover from the company the damages sustained by complying with the offer."

The cases directly in point are not numerous. Most of those in which the general question has been discussed have been cases involving the right of the addressee to sue. Closely in point, however, are *Shingleur* v. *W. Un. Tel. Co.* (1895), 72 Miss. 1030, 30 L. R. A. 444, 48 Am. St. Rep. 604, following *Pepper* v. *Telegraph Co.*, *supra*, and *Ayer* v. *W. Un. Tel. Co.* (1887), 79 Me. 493, 1 Am. St. Rep. 353, following *W. Un. Tel. Co.* v. *Shotter*, *supra*, which came to the opposite conclusion.

Much the same divergence in view exists among the text-writers. See GRAY ON TELEGRAPHS, § 104, note 3; JOYCE ON ELECTRIC LAW, § 907; THOMPSON ON ELECTRICITY, §§ 483-487.

CONSTITUTIONAL LAW—MUNICIPAL FUEL PLANTS.—An application was recently made to the justices of the supreme judicial court of Massachusetts for an opinion on the constitutionality of a house bill designed to authorize the municipal corporations of the state to establish and maintain wood and coal yards at which the people could be supplied with fuel. In the main, the answers were adverse to the validity of the measures proposed. *In re Municipal Fuel Plants* (1903), — Mass. —, 66 N. E. Rep. 25.

In view of the recent establishment of municipal fuel yards by many of our cities, the opinion of the Massachusetts court is an interesting one. The same question was discussed, and the constitutionality of the plan denied, by this court in the *Opinion of the Justices*, 155 Mass. 599, 30 N. E. 1142, 15 L. R. A. 809; and in a similar opinion, by the supreme judicial court of Maine, in *Opinion of Judges*, 58 Me. 590. In the present case the justices adopted and reaffirmed the doctrine of the earlier opinion. Says the court: "Money cannot be raised by taxation except for a public use. . . . If men of property, owning coal and wood yards, should be compelled to pay taxes for the establishment of a rival coal yard by a city or town, to furnish fuel at cost, they would thus be forced to make contributions of money for their own impoverishment. . . . . A similar result would follow if the business of furnishing provisions and clothing, and other necessaries of life, were taken up by the government. . . . The business of selling fuel can be conducted easily by individuals in competition. It does not require the exercise of any governmental function." The court recognizes certain exceptions to this doctrine, however, where the expenditure of money for fuel would be for a public purpose. First, in case of an absolute famine in fuel; and second, "Where the supply of fuel was so small, and the difficulty of obtaining so great, that persons desiring to purchase it would be unable to supply themselves through private enterprise. . . . . Under these circumstances . . . the government might constitute itself an agent for the relief of the community, and money expended for the purpose would be expended for

public use." But, as is remarked by Loring, J., dissenting, where there is such a scarcity of coal that individual enterprise is not able to buy it, it is difficult to see how the interference of government, which is not to exercise any governmental function, can hope to be successful.

EXEMPTION—LABORER'S WAGES.—Perplexing questions arise under the statutes providing that the wages or personal earnings of laborers and mechanics, within certain limits are exempt from all process for payment of their debts. The statutes differ in terms but present substantially the same questions. Who are laborers? One judge said he was sure that all the members of his court were laborers, if fatiguing application and long hours were the test. But the distinguishing feature generally agreed on is the proportion of skill to exertion. Where physical toil is the main ingredient, although directed and made more valuable by skill, the person performing the toil is generally considered a laborer within the meaning of the statutes. But not so when the physical exertion is only incidental to the application of skill. (See cases collected in Rood, Garnishment § 91.) In a recent case in Louisiana it was held that a locomotive engineer on a passenger train is not a laborer. The court said: "The mechanic whose knowledge, trained eye and hand are relied on to protect the hundreds of passengers whose safety depends on his skill and duty intelligently performed," is not a laborer. A number of cases are reviewed. *State* v. *Land* (1902), — La. —, 32 South. Rep. 433.

It seems that this is putting too strict a construction on the term. It is true that the skill and character of the engineer are very important items in his employment. But his work involves constant and vigorous application of the muscles and gives him the horny hand and "blue finger nails." The opposite conclusion was reached in Georgia, on similar facts, and under a similar statute. *Sanner* v. *Shivers* (1886), 76 Ga. 335.

EXECUTORS AND ADMINISTRATORS—STATUTE OF LIMITATIONS—ACTIONS IN FEDERAL COURTS.—The supreme court of the United States has recently held, reversing the circuit court for the eastern district of Minnesota and the circuit court of appeals for the eighth circuit (memorandum in 43 C. C. A. 683, 104 Fed. Rep. 1006), that although statutes of the states requiring all claims to be prosecuted only in the probate courts of the state do not prevent non-resident creditors suing in the federal courts without presenting their claims in the probate court; yet a decree of the probate court of the state ordering final distribution of the estate, made within a year after the death of the debtor, is a bar to any action in the federal courts commenced after that order was made, though the state statute permitted the probate court to allow eighteen months in which to present claims, and the action in this case was commenced within the eighteen months. The decision was based on the fact that the state court had held that the effect of such a decree by the probate court "is to remove the estate of the deceased from the jurisdiction of the (probate) court, and to render the office of the administrator, which depends upon such jurisdiction, *functus officio*." *Security Trust Co.* v. *Black River Nat. Bank* (1902), — U. S. —, 23 Sup. Ct. Rep. 52.